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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/825, 585	04/01/97	YOSHIDA	T 35.C10516-CO

FITZPATRICK CELLA HARPER & SCINTO  
277 PARK AVENUE  
NEW YORK NY 10172

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EXAMINER

ENG, G

ART UNIT

PAPER NUMBER

2743

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**Application No.  
**08/825,585**

Applicant(s)

**Yoshida**

Examiner

**George Eng**

Group Art Unit

**2743** Responsive to communication(s) filed on Apr 1, 1997 This action is FINAL. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims** Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) \_\_\_\_\_ is/are allowed. Claim(s) 1-10 is/are rejected. Claim(s) \_\_\_\_\_ is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152**-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --**

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueno (US PAT. 5,661,568).

Regarding claims 1 and 6, Ueno teaches a data communication apparatus and method for executing plural kinds of communication protocols as shown in figure 1 comprising:

- a) a first data modem (107);
- b) a second data modem (109);
- c) a first protocol modem (106);
- d) a second protocol modem (108);
- e) a network controller (110) comprising a detection circuit for detecting a call signal (col. 4 lines 51-57);
- f) a memory 105 for storing communication information (col. 5 lines 6-17).

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Ueno also teaches transmission speeds are selected based upon an information of a communication of a destination station such that a detection unit is used for detecting a call signal of the destination station. See col. 5 line 18 through col. 9 line 22. Ueno differs from the claimed invention in not specifically teaching two protocol modems. However, Ueno teaches to reduce a total communication time by transmitting protocol signal in a low speed modem and data signal in a high speed modem. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the modem 108 as a protocol modem for a data modem 109 because of reducing the communication time.

Regarding claims 2-3 and 7-8, Ueno teaches a memory 105 for storing an information of a destination station in accordance with an execution of a communication protocol. See col. 5 lines 6-17.

Regarding claims 4 and 9, Ueno teaches a data communication apparatus is capable of changing with different type of modems. See figure 1 and col. 5 line 18 through col. 9 line 22.

Regarding claims 5 and 10, Ueno differs from the claimed invention in not using V.8 and V.35 in a communication apparatus, the particular of protocol used is merely a matter of design option such that V.34 is the international standard for dial up modems of up to 28,800 bits per second and V.8 is a way V.34 modems negotiate connection features and option.

*Response to Arguments*

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3. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshida et al. (US PAT. 5,726,765) teaches a data communication apparatus for setting the baud rate and the bit rate of a modem having the modulation and demodulation functions of ITU-T Recommendations V21, V27ter, V29, V17, V8 and V34. See abstract and figure 1.

5. **Any response to this action should be mailed to:**

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**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 305-9508 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is (703) 308-9555. The examiner can normally be reached on Tuesday to Friday from 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (703) 305-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



PAUL LOOMIS  
PRIMARY EXAMINER